

317.22

ARTICLE 14

317.23

GRANTS MANAGEMENT

317.24 Section 1. **FINANCIAL REVIEW OF NONPROFIT GRANT RECIPIENTS**
317.25 **REQUIRED.**

317.26 Subdivision 1. **Financial review required.** (a) Before awarding a competitive,
317.27 legislatively named, single source, or sole source grant to a nonprofit organization under
317.28 this act, the grantor must require the applicant to submit financial information sufficient for
317.29 the grantor to document and assess the applicant's current financial standing and management.
317.30 Items of significant concern must be addressed with the applicant and resolved to the
317.31 satisfaction of the grantor before a grant is awarded. The grantor must document the material
318.1 requested and reviewed; whether the applicant had a significant operating deficit, a deficit
318.2 in unrestricted net assets, or insufficient internal controls; whether and how the applicant
318.3 resolved the grantor's concerns; and the grantor's final decision. This documentation must
318.4 be maintained in the grantor's files.

318.5 (b) At a minimum, the grantor must require each applicant to provide the following
318.6 information:

318.7 (1) the applicant's most recent Form 990, Form 990-EZ, or Form 990-N filed with the
318.8 Internal Revenue Service. If the applicant has not been in existence long enough or is not
318.9 required to file Form 990, Form 990-EZ, or Form 990-N, the applicant must demonstrate
318.10 to the grantor that the applicant is exempt and must instead submit documentation of internal

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153.11 Sec. 7. **GRANT AUTHORITY.**

153.12 (a) The commissioner of education may transfer funding for grant administration and
153.13 monitoring within the Department of Education as the commissioner determines necessary
153.14 with the advance approval of the commissioner of management and budget. All transfers
153.15 under this section must be intrafund.

153.16 (b) Unless a different amount is specified by law, the commissioner of education may
153.17 retain up to four percent of amounts appropriated for grants for the purpose of grant
153.18 administration and monitoring.

153.19 Sec. 8. **FINANCIAL REVIEW OF GRANT AND BUSINESS SUBSIDY**
153.20 **RECIPIENTS.**

153.21 Subdivision 1. **Definitions.** (a) As used in this section, the following terms have the
153.22 meanings given.

153.23 (b) "Grant" means a grant or business subsidy funded by an appropriation in this act.

153.24 (c) "Grantee" means a business entity as defined in Minnesota Statutes, section 5.001.

153.25 Subd. 2. **Financial information required; determination of ability to perform.** Before
153.26 an agency awards a competitive, legislatively named, single source, or sole source grant,
153.27 the agency must assess the risk that a grantee cannot or would not perform the required
153.28 duties. In making this assessment, the agency must review the following information:

153.29 (1) the grantee's history of performing duties similar to those required by the grant,
153.30 whether the size of the grant requires the grantee to perform services at a significantly
154.1 increased scale, and whether the size of the grant will require significant changes to the
154.2 operation of the grantee's organization;

154.3 (2) for a grantee that is a nonprofit organization, the grantee's Form 990 or Form 990-EZ
154.4 filed with the Internal Revenue Service in each of the prior three years. If the grantee has
154.5 not been in existence long enough or is not required to file Form 990 or Form 990-EZ, the
154.6 grantee must demonstrate to the grantor's satisfaction that the grantee is exempt and must

318.11 controls and the applicant's most recent financial statement prepared in accordance with
318.12 generally accepted accounting principles and approved by the applicant's board of directors
318.13 or trustees or, if there is no such board, by the applicant's managing group;

318.14 (2) evidence of registration and good standing with the secretary of state under Minnesota
318.15 Statutes, chapter 317A, or other applicable law;

318.16 (3) unless exempt under Minnesota Statutes, section 309.515, evidence of registration
318.17 and good standing with the attorney general under Minnesota Statutes, chapter 309; and

318.18 (4) if required under Minnesota Statutes, section 309.53, subdivision 3, the applicant's
318.19 most recent audited financial statement prepared in accordance with generally accepted
318.20 accounting principles.

318.21 Subd. 2. **Authority to postpone or forgo; reporting required.** (a) Notwithstanding
318.22 any contrary provision in this act, a grantor that identifies an area of significant concern
318.23 regarding the financial standing or management of a legislatively named applicant may
318.24 postpone or forgo awarding the grant.

318.25 (b) No later than 30 days after a grantor exercises the authority provided under paragraph
318.26 (a), the grantor must report to the chairs and ranking minority members of the legislative
318.27 committees with jurisdiction over the grantor's operating budget. The report must identify
318.28 the legislatively named applicant and the grantor's reason for postponing or forgoing the
318.29 grant.

318.30 Subd. 3. **Authority to award subject to additional assistance and oversight.** A grantor
318.31 that identifies an area of significant concern regarding an applicant's financial standing or
318.32 management may award a grant to the applicant if the grantor provides or the grantee

154.7 instead submit the grantee's most recent board-reviewed financial statements and
154.8 documentation of internal controls;

154.9 (3) for a for-profit business, three years of federal and state tax returns, current financial
154.10 statements, certification that the business is not under bankruptcy proceedings, and disclosure
154.11 of any liens on its assets. If a business has not been in business long enough to have three
154.12 years of tax returns, the grantee must demonstrate to the grantor's satisfaction that the grantee
154.13 has appropriate internal financial controls;

154.14 (4) evidence of registration and good standing with the secretary of state under Minnesota
154.15 Statutes, chapter 317A, or other applicable law;

154.16 (5) if the grantee's total annual revenue exceeds \$750,000, the grantee's most recent
154.17 financial audit performed by an independent third party in accordance with generally accepted
154.18 accounting principles; and

154.19 (6) certification, provided by the grantee, that none of its principals have been convicted
154.20 of a financial crime.

154.21 Subd. 3. **Additional measures for some grantees.** The agency may require additional
154.22 information and must provide enhanced oversight for grants that have not previously received
154.23 state or federal grants for similar amounts or similar duties and so have not yet demonstrated
154.24 the ability to perform the duties required under the grant on the scale required.

155.1 Subd. 6. **Legislatively-named grantees.** If an agency determines that there is an
155.2 appreciable risk that a grantee receiving a legislatively named grant cannot or would not
155.3 perform the required duties under the grant agreement, the agency must notify the grantee,
155.4 the commissioner of administration, and the chair and ranking minority members of Ways
155.5 and Means Committee in the house of representatives, the chairs and ranking minority
155.6 members of the Finance Committee in the senate, and the chairs and ranking minority
155.7 members of the committees in the house of representatives and the senate with primary
155.8 jurisdiction over the bill in which the money for the grant was appropriated. The agency
155.9 must give the grantee an opportunity to respond to the agency's concerns. If the grantee
155.10 does not satisfy the agency's concerns within 45 days, the agency must delay award of the
155.11 grant until adjournment of the next regular or special legislative session.

154.25 Subd. 4. **Assistance from administration.** An agency without adequate resources or
154.26 experience to perform obligations under this section may contract with the commissioner
154.27 of administration to perform the agency's duties under this section.

154.28 Subd. 5. **Agency authority to not award grant.** If an agency determines that there is
154.29 an appreciable risk that a grantee receiving a competitive, single source, or sole source grant
154.30 cannot or would not perform the required duties under the grant agreement, the agency must

318.33 otherwise obtains additional technical assistance, as needed, and the grantor imposes
319.1 additional requirements in the grant agreement. Additional requirements may include but
319.2 are not limited to enhanced monitoring, additional reporting, or other reasonable requirements
319.3 imposed by the grantor to protect the interests of the state.

319.4 Subd. 4. **Relation to other law and policy.** The requirements in this section are in
319.5 addition to any other requirements imposed by law; the commissioner of administration
319.6 under Minnesota Statutes, sections 16B.97 and 16B.98; or agency policy.

154.31 notify the grantee and the commissioner of administration and give the grantee an opportunity
154.32 to respond to the agency's concerns. If the grantee does not satisfy the agency's concerns
154.33 within 45 days, the agency must not award the grant.

155.12 Subd. 7. **Subgrants.** If a grantee will disburse the money received from the grant to
155.13 other organizations to perform duties required under the grant agreement, the agency must
155.14 be a party to agreements between the grantee and a subgrantee. Before entering agreements
155.15 for subgrants, the agency must perform the financial review required under this section with
155.16 respect to the subgrantees.

155.17 Subd. 8. **Effect.** The requirements of this section are in addition to other requirements
155.18 imposed by law; the commissioner of administration under Minnesota Statutes, sections
155.19 16B.97 to 16B.98; or agency grant policy.